

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2056 Session of 2011

INTRODUCED BY STERN, KIRKLAND, BOYD, AUMENT, R. BROWN, V. BROWN, CLYMER, CUTLER, DeLUCA, DENLINGER, DUNBAR, ELLIS, J. EVANS, FABRIZIO, FARRY, FLECK, GEIST, GERGELY, GIBBONS, GINGRICH, GODSHALL, GROVE, HALUSKA, HARHART, HARKINS, HESS, HICKERNELL, HORNAMAN, HUTCHINSON, F. KELLER, KILLION, MASSER, MILLARD, MOUL, MURT, PICKETT, ROSS, SAINATO, SONNEY, STEVENSON, SWANGER, PYLE, M. K. KELLER, MAJOR, OBERLANDER, BOBACK, BAKER, COHEN, HELM, HARHAI, O'NEILL, EVERETT, MALONEY AND REED, DECEMBER 6, 2011

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT, DECEMBER 6, 2011

AN ACT

1 Establishing the Pennsylvania Tourism Commission; providing for
2 powers and duties of the Pennsylvania Tourism Commission;
3 establishing the Tourism Promotion Trust Fund; and repealing
4 the Travel and Tourism Act.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Pennsylvania
9 Tourism Commission Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Board." The Pennsylvania Tourism Commission Board
15 established by this act.

1 "Commission." The Pennsylvania Tourism Commission
2 established by this act.

3 "Destination marketing organization." A nonprofit
4 corporation, organization, association or agency that is engaged
5 in tourism marketing or promotion on a regional or Statewide
6 basis to attract leisure or business travelers to this
7 Commonwealth.

8 "Tourism promotion agency." A recognized nonprofit
9 corporation, organization, association or agency that is engaged
10 in planning and promoting programs designed to stimulate and
11 increase the volume of tourist, visitor and vacation business
12 within counties served by the agency as that term is defined in
13 the act of July 4, 2008 (P.L.621, No.50), known as the Tourism
14 Promotion Act.

15 Section 3. Pennsylvania Tourism Commission.

16 An independent agency is established, which shall be a body
17 corporate and politic to be known as the Pennsylvania Tourism
18 Commission. The purposes, powers and duties of the commission
19 shall be vested in and exercised by the Pennsylvania Tourism
20 Commission Board, which board is established.

21 Section 4. Pennsylvania Tourism Commission Board.

22 (a) Membership.--The Pennsylvania Tourism Commission Board
23 shall consist of the following members appointed by the
24 Governor:

- 25 (1) Three members representing tourism promotion
26 agencies to be selected from a list of at least six nominees
27 submitted by the major Statewide industry association
28 representing tourism promotion agencies, destination
29 marketing organizations and convention and visitors bureaus,
30 as follows: one member from a county of the first, second or

1 second class A; one member from a county of the third, fourth
2 or fifth class; and one member from a county of the sixth,
3 seventh or eighth class.

4 (2) One member from the hotel and travel lodging sector.

5 (3) One member representing restaurants, taverns or
6 eating establishments.

7 (4) Three at-large members, each of whom has at least
8 ten years of professional experience in marketing or
9 advertising.

10 (5) One member from the retail shopping sector.

11 (6) One member from the recreation and entertainment
12 sector.

13 (7) One member from the transportation sector.

14 (b) Ex officio members.--The following, or their designees,
15 shall serve as nonvoting ex officio members of the board:

16 (1) The Secretary of Community and Economic Development.

17 (2) The Secretary of Conservation and Natural Resources.

18 (3) The executive director of the Pennsylvania
19 Historical and Museum Commission.

20 (4) The executive director of the Pennsylvania Council
21 on the Arts.

22 (5) The chairman and minority chairman of the Community,
23 Economic and Recreational Development Committee of the
24 Senate.

25 (6) The chairman and minority chairman of the Tourism
26 and Recreational Development Committee of the House of
27 Representatives.

28 (c) Term of office.--Members under subsection (a) shall
29 continue in office for terms of two or four years from the date
30 of their initial appointment, the term of each appointed member

1 to be designated by the Governor at the time of the appointment.
2 Successor members shall be appointed for a term of four years.
3 An appointment to fill a vacancy shall be for the remainder of
4 the unexpired term. No member shall serve more than two full
5 consecutive terms.

6 (d) Chairman.--The board shall select the chairman of the
7 board from among the members by a majority vote with a quorum
8 present.

9 (e) Qualifications of members.--Members under subsection (a)
10 shall be qualified by reason of experience or employment and
11 must be a resident of this Commonwealth for a period of at least
12 one year immediately preceding appointment. Each member shall
13 continue to remain a resident of this Commonwealth during the
14 term of membership on the board.

15 (f) Quorum.--A majority of the voting members of the board
16 shall constitute a quorum for the transaction of business at a
17 meeting or the exercise of a power or function of the
18 commission.

19 (g) Meetings.--The board shall meet at least quarterly and
20 from time to time as it determines.

21 (h) Compensation.--Members shall serve without compensation
22 but shall receive reimbursement for all reasonable and necessary
23 expenses incurred in connection with the performance of their
24 duties as members of the board.

25 (i) Liability.--No member shall be personally liable for
26 obligations of the commission or actions which were within the
27 scope of the member's office and made in good faith.

28 (j) Applicable laws.--

29 (1) The following acts shall apply to the commission:

30 (i) The act of February 14, 2008 (P.L.6, No.3),

known as the Right-to-Know Law.

(ii) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(iii) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

(2) The commission shall be considered an independent agency for the purposes of 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code), excluding expenditures under section 5(a)(5) and (b)(10), (11), (12), (13), (14) and (15).

Section 5. General and specific powers.

(a) General powers.--

(1) The commission shall serve as the official tourism promotion and marketing agency of the Commonwealth.

(2) The board shall appoint an executive director who shall be qualified by education and experience and who shall be the chief executive officer of the commission and attend to its administrative work. The executive director shall serve at the pleasure of the board, which shall fix his compensation subject to the approval of the Governor. At the discretion of the board, the executive director may be considered a State employee for purposes of 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers).

(3) The commission shall employ individuals as necessary to carry out the powers and duties of the commission, who shall serve at the board's pleasure. Notwithstanding the provisions of paragraph (4), an employee of the commission shall not be considered a State employee for purposes of 71 Pa.C.S. Pt. XXV.

1 (4) The commission may employ individuals who at the
2 time of hiring are State employees as defined in 71 Pa.C.S.
3 Pt. XXV and who shall continue in that status until they
4 leave employment with the commission.

5 (5) The commission may hire independent contractors as
6 required to achieve the tourism marketing, promotion and
7 development provisions of this act.

8 (b) Specific powers.--The commission shall have the specific
9 powers and duties:

10 (1) To pay or satisfy obligations of the commission.

11 (2) To sue or be sued, implead and be impleaded or
12 interplead.

13 (3) To contract and execute instruments as necessary to
14 carry out the powers and duties of the commission.

15 (4) To sell, transfer, convey and dispose of tangible or
16 intangible property owned by the commission.

17 (5) To adopt a budget.

18 (6) To lease, furnish and equip such buildings, rooms
19 and other accommodations as shall be required for the
20 operation of the commission.

21 (7) To do all acts and things necessary or convenient to
22 carry out the powers granted to it by this act or any other
23 act. The commission shall have no power to pledge the credit
24 or taxing power of the Commonwealth.

25 (8) To purchase insurance against a loss related to the
26 commission's property or assets.

27 (9) To retain attorneys, accountants, auditors and
28 financial and other experts to render services as necessary.
29 For the purposes of this paragraph, the commission shall be
30 considered an independent agency for purposes of the act of

1 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
2 Attorneys Act.

3 (10) To develop, implement and update an annual travel
4 and tourism marketing plan for the Commonwealth.

5 (11) To develop the Commonwealth's official tourism
6 slogan and official tourism logos.

7 (12) To solicit and approve all requests for proposals
8 which pertain to tourism marketing, promotion and
9 development.

10 (13) To make and execute contracts for tourism
11 marketing, promotion and development.

12 (14) To publish and distribute tourism marketing and
13 promotion materials and maintain tourism sites, social media
14 and mobile applications on the Internet.

15 (15) To engage in any other tourism marketing, promotion
16 and development activities to attract leisure and business
17 travelers to this Commonwealth.

18 (16) To develop policies necessary for the
19 administration and enforcement of this act, including minimum
20 standards for recognized tourism promotion agencies.

21 (17) To review and approve applications for grants to
22 recognized tourism promotion agencies under the act of July
23 4, 2008 (P.L.621, No.50), known as the Tourism Promotion Act.

24 (18) To review and approve applications for regional
25 marketing partnership grants to recognized tourism promotion
26 agencies and destination marketing organizations under the
27 Tourism Promotion Act.

28 (19) To collect and publish visitor statistics and
29 tourism research.

30 (20) To expend any revenue under the Tourist Promotion

Trust Fund established under section 9.

Section 6. Annual report.

The commission shall submit a report to the Governor and the General Assembly by the second December 31 following the effective date of this section and every December 31 thereafter. The report shall include, at a minimum, a financial statement with commission revenue and expenditures, the tourism programs and projects undertaken by the commission and tourism statistics.

Section 7. Transfer of department power.

The powers and duties of the Department of Community and Economic Development imposed under the act of July 4, 2008 (P.L.621, No.50), known as the Tourism Promotion Act, are transferred to and shall be exercised by the commission.

Section 8. State agencies.

(a) Cooperation.--The commission may request and receive from any department, division, board, bureau, commission or any other agency of the State or any political subdivision or authority such cooperation, assistance, information and data necessary to properly carry out its powers and duties.

(b) Review.--State departments, divisions, boards, bureaus, commissions and other State agencies shall submit tourism programs, plans or printed materials to the commission for review prior to implementation, renewal or publishing of such programs, plans or printed materials to ensure the coordination of the tourism marketing, promotion and development efforts of the Commonwealth.

Section 9. Tourist Promotion Trust Fund.

(a) Establishment.--A special fund is established within the State Treasury to be known as the Tourist Promotion Trust Fund.

(b) Deposits.--The following shall be deposited into the fund:

(1) The amounts made available to the commission as executive authorizations and appropriations from the General Fund.

(2) All money received by the commission from cooperative advertising, grants, donations, fees, interest and dividends.

(3) Any other tax revenues and fees established by policy, rule or statute.

(c) Use of revenues.--

(1) Money in the fund shall be used by the commission to effectuate the commission's powers and duties under this act, including, but not limited to, tourism marketing and promotion, grants, fulfillment and the administrative costs of the commission.

(2) Money in the fund is appropriated on a continuing basis to the commission and shall not lapse. As often as may be necessary, payments from the fund shall be made upon warrant of the State Treasurer after receipt of a requisition from the commission.

(d) Audit.--The accounts and books of the commission shall be examined and audited from time to time by the Auditor General as provided in the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

Section 10. Repeals.

(a) Legislative intent.--The General Assembly finds and declares that the repeal under subsection (b) is necessary to effectuate the act.

(b) Specific.--The act of December 9, 2002 (P.L.1491,

1 No.189), known as the Travel and Tourism Act, is repealed.

2 (c) General.--All other acts and parts of acts are repealed
3 insofar as they are inconsistent with this act.

4 Section 11. Effective date.

5 This act shall take effect in 90 days.